

Message Text

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ACTION L-03

INFO OCT-01 IO-14 ISO-00 ACDA-19 AF-10 ARA-16 EA-11 EUR-25

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E.O. 11652: N/A

TAGS: UN PFOR

SUBJECT: DEFINITION OF AGGRESSION

REF: STATE 64953

1. NEW CONTACT GROUP (OPEN TO ALL COMMITTEE MEMBERS) HAS BEEN FORMED REVIEW WORK OF OTHER CONTACT GROUPS ON ENTIRE DEFINITION. GROUP BEGAN WITH PREAMBLE, AND ACCEPTED PARAS 1-3 AS IN ORIGINAL TEXT, AND 4, 8, AND 9 WITH MINOR DRAFTING CHANGES. CONSIDERATION PARAS 5, 6 AND 7 DELAYED, RESPECTIVELY, BY ROMANIAN INSISTENCE ON REFERRING IN PARA 5 TO PERMANENT PROHIBITION ON USE OF NUCLEAR WEAPONS, SPANISH PROPOSAL TO ADD REFERENCE IN PARA 6 TO SOVEREIGNTY AND TERRITORIAL INTEGRITY OF PEOPLES, AND ROMANIAN INSISTENCE ON DELETING FINAL REFERENCE TO CHARTER IN PARA 7. GROUP WILL RETURN TO THESE PARAS AFTER TIME FOR CORRIDOR CONSULTATIONS AMONG INTERESTED DELS. WE HAVE OPPOSED THESE AMENDMENTS AND EXPECT THEY WILL BE EXCLUDED OR RENDERED HARMLESS BY REDRAFTING.

2. GROUP ACCEPTED PRESENT TEXT OF ART 1 WITH SLIGHT

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DRAFTING CHANGE IN EXPLANATORY NOTE. "HOWEVER

EXERTED" WILL REMAIN FOR NOW IN BRACKETS UNTIL 3(G)
RESOLVED.

3. ON ART 2, US PROPOSED REDRAFT SUGGESTED IN
PARA 2 OF REFTEL. A FEW DELS (UK, CANADA, SPAIN)
THOUGHT THIS WAS DRAFTING IMPROVEMENT, BUT MOST DELS
REACTED VERY NEGATIVELY. COLOMBIA AND MADAGASCAR
TOOK THIS AS OPPORTUNITY TO INTRODUCE COUNTER-
PROPOSALS FOR ART WHICH OMITTED REFS TO BOTH
"CONTRAVENTION OF CHARTER" AND "PURPOSES". AFTER
HEATED EXCHANGE, MEETING ADJOURNED WITHOUT
RESOLUTION OF QUESTIONS. LATER INFORMAL NEGOTIATING
SESSION REVEALED THAT BROMS (FINLAND), LAMPTEY (GHANA)
AND OTHER MODERATES HAVE IN MIND DELETING "PURPOSES"
IN RETURN FOR RETENTION OF "CONTRAVENTION"
LANGUAGE. THIS ACCEPTABLE TO USSR AND OTHER SIX
POWERS, BUT FRANCE STILL OPPOSES RETENTION OF "IN
CONTRAVENTION" (APPARENTLY A PROBLEM OF CONTINENTAL
JURISPRUDENCE).

4. ON ART 3, US PROPOSED REPLACEMENT OF "SHALL...
CONSISTUTE" IN INTRODUCTORY LANGUAGE WITH "WOULD...
QUALIFY AS"; UK, JAPAN AND ITALY SPOKE IN FAVOR, AND
NO IMMEDIATE OBJECTIONS RAISED; GROUP WILL RETURN TO
IT LATER. SUBPARA (A), (C) AND (E) ACCEPTED WITHOUT
OBJECTION. APPROVAL OF SUBPARAS (B) AND (D) DEFERRED
WHEN ROMANIA INSISTED ON REFERENCE IN FORMER TO
WEAPONS OF MASS DESTRUCTION, AND ECUADOR INSISTED
ON DELETION OF "MARINE AND AIR FLEETS" FROM LATTER.
GROUP CLEARLY OPPOSED TO BOTH PROPOSALS, AND
DECIDED ONLY TO GIVE ROMANIA AND ECUADOR OPPORTUNITY TO
PREPARE POSSIBLE STATEMENTS FOR INSERTION IN COMMITTEE
REPORT TO COVER THEIR CONCERNS. SUBPARA (F) ACCEPTED
AS FOLLOWS: "THE ACTION OF A STATE IN ALLOWING ITS
TERRITORY, WHICH IT HAS PLACED AT THE DISPOSAL OF
ANOTHER STATE, TO BE USED BY THAT OTHER STATE FOR
PERPETRATING AN ACT OF AGGRESSION AGAINST A THIRD
STATE." NO OBJECTIONS OF SUBSTANCE RAISED TO SUBPARA
(G); GROUP WILL RETURN TO IT LATER. ART 4
ACCEPTED AS PREVIOUSLY REPORTED.

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5. AS DEPT AWARE PER TELECONS WITH US DELOFFS,
STORMY DEBATE HAS OCCURRED ON ART 5. SEVERAL DELS,
INCLUDING SPAIN, ALGERIA AND EGYPT, HAVE OBJECTED TO
INCLUSION OF "FORCIBLY DEPRIVED" LANGUAGE; 13-POWER
DELS HAVE VIGOROUSLY OPPOSED USE OF TERM
"LEGITIMATE" TO QUALIFY MEANS USED BY OPPRESSED PEOPLES
AND HAVE PROPOSED A VARIETY OF UNACCEPTABLE TERMS TO

REPLACE IT; AND SOME 13-POWER DELS ALSO PRESSING FOR REFERENCE TO "OTHER RELEVANT PROVISIONS", MEANING GA RESOLUTIONS FAVORABLE TO THEM. US AND UK HAVE TAKEN FIRM LINE AGAINST THESE PROPOSALS AND, AS RESULT, WE MAY BE MOVING TOWARD TEXT WHICH PRESERVES "FORCIBLE DEPRIVATION", ADEQUATELY QUALIFIES ACTIONS TO WHICH PEOPLES MAY HAVE RESORT, AND AVOIDS REFS TO DOCUMENTS OTHER THAN CHARTER AND FRIENDLY RELATIONS DECLARATION. IT IS, HOWEVER, IMPOSSIBLE TO TELL WHETHER EGYPT, ALGERIA AND OTHER RADICALS WILL PERMIT AGREEMENT ON THIS BASIS.

6. COMPLETION OF ART 6 HAS BEEN HUNG UP BY INSTRUCTIONS OF UK DEL TO OPPOSE IDENTIFICATION OF ALL ACTS OF AGGRESSION AS "CRIMES", AND SOVIETS INSTRUCTIONS TO THE CONTRARY. BROMS HAS PROPOSED COMPROMISE ALONG FOL LINES: "A WAR OF AGGRESSION CONSTITUTES A CCRIME AGAINST INTERNATIONAL PEACE AND AGGRESSION GIVES RISE TO RESPONSIBILITY UNDER INTERNATIONAL LAW." UK IS PRESSING FOR INSERTION OF "STATE" BEFORE "RESPONSIBILITY", AND DELETION OF "AND" SO AS TO MAKE TWO SENTENCES.

7. ROMANIA CONTINUES TO PRESS FOR INCLUSION AS OPERATIVE PARA OF ITS PROPOSAL THAT "NO CONSIDERATION OF WHATEVER NATURE, WHETHER POLITICAL, ECONOMIC, MILITARY OR OTHERWISE, RELATING TO THE INTERNAL OR FOREIGN POLICY OF A STATE, MAY SERVE AS A JUSTIFICATION FOR AGGRESSION AS HEREIN DEFINED." USSR AND OTHERS HOSTILE TO THIS, AND BROMS HAS URGED THAT A SHORTENED VERSION (WITHOUT REFS TO "INTERNAL OR FOREIGN POLICY") BE INCLUDED EITHER IN ART 6 OR PREAMBLE.

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